

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)
) No. 70441-9-I
 Respondent,)
)
 v.)
)
 JOHN ALAN CARTER,) UNPUBLISHED OPINION
)
 Appellant.) FILED: MAY 12 2014
)

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COURT OF APPEALS DIV 1
STATE OF WASHINGTON

PER CURIAM — A jury found John Carter guilty of first degree rape and second degree kidnapping. On appeal, he contends – and the State concedes – that the trial court erred in imposing an exceptional minimum term based on a judicial finding that the standard range was “clearly too lenient.” See RCW 9.94A.535(2)(b); Alleyne v. United States, ___ U.S. ___, 133 S. Ct. 2151, 186 L. Ed. 2d 314 (2013) (any fact that increases the mandatory minimum sentence must be proved to the jury beyond a reasonable doubt). The State also concedes that there is no statutory authority for submitting the “clearly too lenient” aggravator to a jury on remand. Accordingly, we accept the State’s concessions and remand the matter for the imposition of a minimum term within the standard range.

Remanded for proceedings consistent with this opinion.

FOR THE COURT:






